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May 17, 2012

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation
WC Docket Nos. 10-90, 05-337; WT Docket No. 10-208; CC Docket No. 96-45
T-Mobile USA, Inc. – Petition for Reconsideration or Clarification of CETC
Support Baseline Calculation

Dear Ms. Dortch:

On May 15, 2012, T-Mobile USA, Inc. (“T-Mobile”) met with staff from the Wireline Competition Bureau (“WCB”) to discuss its petition for reconsideration or clarification of one limited aspect of the *USF-ICC Transformation Order*¹ – the rule for the calculation of the baseline for the phase-down of competitive eligible telecommunications carrier (“CETC”) support.²

In the meeting, T-Mobile was represented by Kathleen O’Brien Ham, Luisa L. Lancetti, David R. Conn (telephonically), Indra Sehdev Chalk, and outside counsel L. Charles Keller of Wilkinson Barker Knauer, LLP. We met with Sharon Gillett, WCB Chief; Carol Matthey, WCB Deputy Chief; Patrick Halley, legal counsel to the Bureau Chief; and Amy Bender, Deputy Chief of WCB’s Telecommunications Access Policy Division. The attached slides formed the basis of T-Mobile’s presentation and were distributed to the meeting attendees.³

T-Mobile pointed out that correcting the rule will avoid discrimination and prevent the phase-out of CETC support from disadvantaging T-Mobile and its customers relative to other wireless carriers against whom it competes. In designating T-Mobile as an ETC in the affected states, the state commissions made the same robust public interest findings regarding T-Mobile’s applications and support eligibility that they made regarding other applicants’ petitions. There is no basis to devalue T-Mobile’s CETC designations or disadvantage the consumers T-Mobile intended to serve with the support it then expected to receive. Failure to grant the T-Mobile

¹ *Connect America Fund, et al.*, WC Docket Nos. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF-ICC Transformation Order*”).

² T-Mobile USA, Inc., Petition for Reconsideration or Clarification, WC Docket Nos. 10-90 *et al.* (filed Dec. 29, 2011) (“T-Mobile Petition”).

³ See Attachment 1.

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Petition would have these effects. Simply put, there is no way to argue that dividing T-Mobile's 2011 support by 12 would result in "a reasonable approximation of the amount of support that competitive ETCs would currently expect to receive, absent reform."⁴

That T-Mobile's CETC designations will result in other CETCs receiving less support is a consequence of the federal CETC cap, not the relief requested by T-Mobile. The Commission recognized that it was creating a fixed pie of CETC support in each state when it imposed the cap in 2008, and, in turn, the state commissions involved were also aware of the federal cap.

In response to an inquiry in the meeting, T-Mobile provides additional information regarding the filing dates for its CETC applications that were granted (or deemed effective) in 2011.⁵

Please direct any questions regarding this filing to the undersigned.

Sincerely,

/s/

Luisa L. Lancetti

Attachments (2)

cc (email): Sharon Gillett
Carol Matthey
Patrick Halley
Amy Bender

⁴ *USF/ICC Transformation Order* at ¶ 515.

⁵ *See* Attachment 2.

Attachment 1:

Slide Deck

T-Mobile's Petition For Reconsideration or Clarification on the Baseline Calculation for CETC Support

May 15, 2012



The Starting Point for Phase Down

- T-Mobile is an important competitor in the wireless marketplace and its customers should not suffer a disproportionate impact under the new USF rules.
- The USF/ICC Transformation Order intended a monthly baseline measure for phase-down to approximate what CETCs would currently receive had the identical support rule been retained.
- But the rule for calculating the monthly baseline support amount is fundamentally inconsistent with the Order on this issue.
 - By requiring CETCs to divide their total 2011 high-cost support by 12 even when a carrier was eligible for support for fewer than 12 months, rule 54.307(e)(1) conflicts with the Order and discriminates against CETCs designated during 2011.
- The rule should be revised to carry out the intent of the Order.

Negative Effect of Current Rule

- Four T-Mobile ETC applications were granted in 2011 (Hawaii, Idaho, Minnesota, and Louisiana) and a fifth ETC application (in Georgia) was deemed effective in 2011. In these states, T-Mobile has not received full-year disbursements of ETC funding.
- Note: T-Mobile has withdrawn its request as to the other states where high-cost ETC status was pending.

Threat to Build Out and Services

- In making its filings and commitments, T-Mobile relied on receipt of the annualized level of phase-down support that other CETCs receive. T-Mobile cannot reasonably be expected to meet those service and build-out commitments if it receives less support.
- Reduction or elimination of phase-down support would threaten the planned build-out of rural cell sites and undermine the expectations of rural consumers for new affordable mobile services.
- An accelerated phase out was not contemplated in ¶495 of the Order.

Discriminatory Effect

- The rule discriminates against ETCs granted in 2011.
 - All ETC grants are supported by public interest findings and build-out commitments.
 - There is no reason other ETCs should receive annualized support amounts while T-Mobile gets less.

There Are No Uncapped States

- Opponents have failed to show how grant of T-Mobile's petition would increase the total high cost fund in what they incorrectly refer to as “uncapped states.”
- There are no uncapped states. The 2008 interim cap order applies to all CETCs in all states. Some states may be below the cap due to ETC relinquishments, but the cap still applies.
- In no case will conforming the rule to the intent of the Order for T-Mobile cause the statewide cap to be exceeded.

Requested Relief

- T-Mobile requests the same phase down from its monthly support for 2011 that the Order provides to all other CETCs – a steady 20% reduction per year, starting July 1, 2012.
- Total support received in 2011 should be divided by the number of months in 2011 for which a CETC was eligible for support, rather than by 12.
- Since the phase down of CETC high-cost support is just a little over a month away, prompt consideration is requested.

Attachment 2:
Filing and Grant Dates of T-Mobile's 2011 CETC Petitions

State	Filed	Granted
Hawaii	06/14/2010	03/14/2011
Idaho	12/14/2010	08/09/2011
Minnesota	02/18/2011	09/27/2011
Louisiana	03/16/2011	10/12/2011
Georgia	11/20/2010	gr. 03/21/2012; eff. 11/17/2011